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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/675,286	09/29/2000	Ganapati Srinivasa	42390P9663	1265

7590 03/14/2006
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EXAMINER

ALI, SYED J

ART UNIT PAPER NUMBER

2195

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/675,286	Applicant(s) SRINIVASA ET AL.	
	Examiner Syed J. Ali	Art Unit 2195	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8-17, 19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-17, 19 and 20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 3, 2006 has been entered. Claims 1-6, 8-17, and 19-20 are presented for examination.

2. The text of those sections of Title 35, U.S. code not included in this office action can be found in a prior office action.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claims because the examined application claim is either anticipated by, or would have been obvious over, the reference claims. See, e.g., *In re Berg*, 140 F.3d 1428 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937 (CCPA 1982); *In re Vogel*, 422 F.2d 438 (CCPA 1970); and *In re Thorington*, 418 F.2d 528 (CCPA 1969).

4. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a

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nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-6, 8-17, and 19-20 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of USPN 6,618,046.

6. Although the conflicting claims are not identical, they are not patentably distinct from each other because a person having ordinary skill in the art would have recognized the claims as obvious variants. The claims of USPN 6,618,046 specify the manner by which a rendering cost estimate and completion time may be calculated based on a scaled down representation of a computer graphics image. Although the patent claims do not use identical terminology as the claimed invention, read in light of the specification it is apparent that the claims cover the same subject matter. Moreover, the additional limitations in the claimed invention relating to sending the data over a network to a server farm, which then calculates a computing requirement and sends the result back to the client, claim 3 as well as the specification of the patent demonstrate that a person having ordinary skill in the art would have recognized this as an obvious step to include. That is, claim 3 indicates that the estimate is generated as the server farm, which only renders the image after receiving an acceptance from the client. Also, the specification indicates that

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the graphics model may be transmitted over a network (col. 4 lines 52-57). The specification also indicates that it is beneficial to derive the estimate at the client before submitting the model to the server farm (col. 2 line 64 - col. 3 line 1). Finally, the specification indicates that similar techniques may apply to other computationally expensive tasks, wherein it would be beneficial to estimate the cost and processing resources needed before submitting the job for processing (col. 1 lines 44-49). Therefore, the claimed invention would have been obvious to a person having ordinary skill in the art in view of the claims of USPN 6,618,046 and the conclusions a person having ordinary skill in the art would draw from the specification of the patent.


Conclusion


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed J. Ali whose telephone number is (571) 272-3769. The examiner can normally be reached on Mon-Fri 8-5:30, 2nd Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai T. An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Syed Ali
March 8, 2006


MENG-AL T. AN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100